

REMARKS

I. Introduction

Claims 95-108 are currently pending in the present application. Claims 95 and 106-108 are independent. All claims stand rejected. In particular, claims 95-97 and 99-108 stand rejected under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent No. 6,598,026 (hereinafter "Ojha"), and claim 98 stands rejected under §103(a) as being allegedly unpatentable over Ojha in view of U.S. Patent No. 6,012,925 (hereinafter "Kelly").

Upon entry of this amendment, which is respectfully requested, claims 95-108 will be cancelled without prejudice or disclaimer, and new claims 109-136 will be added to more clearly and distinctly point out some embodiments.

No new matter is believed to be introduced by this amendment. In particular, support for new claims 109-136 may be found at least in the claims as originally filed (*i.e.*, cancelled claims 1-94) as well as in the specification (*e.g.*, at pg. 12, lines 26-31; pg. 13, lines 16-21; pg. 15, lines 20-30; pg. 17, lines 19-20; pg. 18, lines 28-31; pg. 19; pg. 22; FIG. 2; FIG. 8; pg. 41, lines 14-23; pg. 50, lines 3-25; pg. 53, lines 8-23).

Applicants hereby respectfully request reexamination and reconsideration of the pending claims in light of the amendments and remarks provided herein and in accordance with 37 C.F.R. §1.112.

II. Interview Summary

Initially, Applicants thank Primary Examiner Garg for the telephone interview granted and conducted on July 12, 2005. In the interview, Applicants' representative described some differences between Ojha and currently claimed embodiments. Matching of buyers and sellers via a controller, such as where the matching indicates to the buyer a particular product for sale, was discussed. Matching criteria such as buyer and seller price information and additional criteria was also described. Examiner Garg indicated that clarification of some limitations in the currently claimed embodiments would be fully considered with respect to the applicability of Ojha.

III. The Examiner's Rejections

All pending claims stand rejected. In particular, claims 95-97 and 99-108 stand rejected under 35 U.S.C. §102(e) as being allegedly anticipated by Ojha, and claim 98 stands rejected under §103(a) as being allegedly unpatentable over Ojha in view of Kelly. Applicants respectfully traverse these grounds for rejection, with respect to new claims 109-136, as follows.

A. Rejections Under §102(e) – Ojha

1. The cited reference fails to teach or suggest: determining, by the controller, that the desired product is unavailable AND matching, by the controller, upon the occurrence of a pre-determined event, the stored buyer offer information and the seller offer information

Applicants respectfully assert that Ojha fails to teach or suggest limitations of new independent claims 109 and 110. In particular, Ojha fails to teach or suggest the limitations of *determining, by the controller, that the desired product is unavailable AND matching, by the controller, and upon the occurrence of a pre-determined event, the stored buyer offer information and the seller offer information* (a limitation generally recited by each of the above-referenced independent claims).

Ojha generally describes a system for facilitating “traditional negotiations” between buyers and sellers. (Ojha, Col. 2, lines 47-50). Ojha, for example, allows buyers to search a proprietary database to identify sellers and products that may be of interest to the buyer. (Ojha, Col. 9, lines 37-40). The buyer in Ojha may then submit bids and/or conditional purchase offers for specific products identified by the buyer’s search. (Ojha, Col. 3, lines 6-24; Col. 5, lines 43-44).

Ojha does not, however, contemplate the case where the desired **product is unavailable**. Ojha does not, for example, match **stored buyer information** with seller information. In other words, in the case that a buyer in Ojha can’t find a desired product, no matching of any sort occurs in Ojha. Nor does Ojha contemplate storing the buyer offer information (as equated by the Examiner to the search terms in Ojha). Since such

information is utilized only to locate available products in Ojha, for example, Ojha does not contemplate a need to store such information.

In contrast, currently claimed embodiments allow a buyer to submit buyer offer information (such as a commitment to buy) associated with a desire to purchase a product. The buyer offer information may then, for example, be stored. (Applicants' specification, pg. 22, lines 8-9). This is advantageous, for example, where no current match can be found (*e.g.*, the desired product is unavailable). The buyer offer information may then, for example, be matched at a later time, such as upon the occurrence of a pre-determined event. (Applicants' specification, pg. 12, lines 16-18). The matching may occur and/or be attempted on a periodic basis (such as hourly, daily, etc.), for example, or may occur upon the detecting of a trigger event (such as the receipt of the seller offer information). (*Id.*). In such a manner, for example, the buyer may commit to purchase the desired product when it becomes available. Ojha simply does not teach or suggest such functionality.

Accordingly, at least because Ojha fails to teach or suggest the limitations of *determining, by the controller, that the desired product is unavailable AND matching, by the controller, and upon the occurrence of a pre-determined event, the stored buyer offer information and the seller offer information*, Ojha fails to anticipate new independent claims 109 and 110. Applicants therefore respectfully request that new independent claims 109 and 110 be allowed.

New dependent claims 111-136 are believed patentable at least for depending upon a patentable base claim (*i.e.*, new independent claim 110). Applicants therefore respectfully request that new dependent claims 111-136 be allowed.

Further, Ojha fails to teach or suggest limitations recited in many of the new dependent claims 111-136. Ojha does not describe, for example (i) matching that comprises identifying a minimum price associated with the specific product offered for sale by the seller, and determining, by the controller, that the minimum price associated with the specific product is less than or equal to the maximum price committed to by the buyer (new claim 112), (ii) matching that comprises identifying a minimum price associated with the specific product offered for sale by the seller, determining, by the controller, that the minimum price associated with the specific product offered for sale by

the seller is greater than the maximum price that the buyer committed to pay, and calculating, by the controller, a gap amount by which the minimum price associated with the specific product offered for sale by the seller exceeds the maximum price that the buyer committed to pay (new claim 113), (iii) identifying, by the controller, a subsidy associated with a subsidy amount equal to or greater than the gap amount (new claim 114), (iv) offering the identified subsidy to the buyer (new claim 115), (v) providing, to the seller, based on the quality class associated with the specific product offered for sale by the seller, a suggested price for the specific product (new claim 122), (vi) wherein the matching is prevented from occurring after the expiration date of the commitment (new claim 125), or (vii) determining whether to perform the matching (new claim 128).

At least for these reasons, Applicants respectfully request that new dependent claims 112-115, 122, 125, and 128 be allowed.

B. Rejections Under §103(a) – Ojha in view of Kelly

Applicants respectfully assert that Kelly simply fails to make up for the deficiencies of Ojha. Kelly does not, for example, teach or suggest (i) *determining, by the controller, that the desired product is unavailable, or (ii) matching, by the controller, and upon the occurrence of a pre-determined event, the stored buyer offer information and the seller offer information.*

At least for these reasons, Applicants respectfully request that all new claims 109-136 be allowed.

IV. Conclusion

At least for the foregoing reasons, it is submitted that all claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

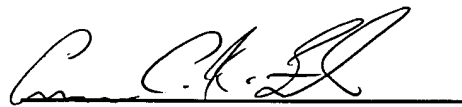
Alternatively, if there remain any questions regarding the present application or the cited reference, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact

Carson C.K. Fincham at telephone number 203-461-7017 or via electronic mail at cfincham@walkerdigital.com, at the Examiner's convenience.

Respectfully submitted,

July 15, 2005

Date

A handwritten signature in black ink, appearing to read 'Carson C.K. Fincham', is written over a horizontal line.

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